

Deficit Reduction Act of 2005, False Claims Act, and Similar Laws Policy

PURPOSE

In conformance with the Deficit Reduction Act of 2005 (the “DRA”), Life Care Centers of America, Inc. (“Life Care” or the “Company”) requires compliance with all laws applicable to its business, including insistence on compliance with all applicable federal and state laws dealing with false claims and false statements. Life Care strives to prevent, detect, and eliminate fraud, waste, and abuse in all government-funded programs from which it receives payments, such as the Medicare and Medicaid programs.

SCOPE

This policy applies to all facilities and offices owned and/or managed by Life Care, as well as all Life Care associates, management, contractors, and agents.

POLICY

Life Care’s existing policies and procedures for detecting, preventing, and reporting fraud, waste, and abuse are found more completely in the Code of Conduct (the “Code”).

Laws Relating to False Claims Recovery

The following explains tools available to federal and state agencies, as well as to Life Care and its associates, to fight fraud, waste, and abuse in the administration of federal and state health programs and the role these tools play in preventing and detecting fraud, waste and abuse in federal and state health-care programs.

Specifically, the information will summarize the following:

-) The Federal False Claims Act;
-) The federal administrative remedies for false claims and statements;
-) The federal whistleblower laws; and
-) State laws regarding false claims, false statements, and whistleblower protection.

Revised 12/31/2018

Approved by CAB 1/11/2019

The Federal False Claims Act, 31 U.S.C. § 3729-3733

Initially passed during the Civil War to fight fraud in military purchasing, the Federal False Claims Act (the “FCA”) is now a broad federal statute that prohibits fraud in any federally funded contract or program, including Medicare and Medicaid. The FCA established liability for any person who knowingly presents, or causes to be presented, a false or fraudulent claim to the U.S. government for payment.

The term “knowingly” means that the person either had actual knowledge the claim was false, deliberately acted in ignorance of the truth or falsity of the claim, or acted in reckless disregard of the claim’s truth or falsity. The term “claim” includes any request or demand for money that is submitted to the U.S. government or its contractors.

False claims for health-care providers can take a variety of forms. Examples include falsifying billing records, double-billing for items or services, overcharging for items or service, billing for services never performed or items never delivered, billing for delivering less than promised, and charging for one thing while providing another.

The Federal Administrative Remedies for False Claims and Statements

The penalties for violating the FCA are severe. Violators may be subjected to a civil penalty ranging from \$10,957 to \$21,916 for each false claim submitted (as adjusted from time to time for inflation). In addition, the violator can be required to pay three times the amount of damages sustained by the government for each false claim, which is typically the amount the government paid for each false claim. In addition, the Office of Inspector General (the “OIG”) – the agency within the Department of Health and Human Services charged with investigating fraud and abuse – may seek exclusion of a convicted health-care provider or supplier from further participation in any federal health-care program. A violator can also be held liable to the government for costs associated with any civil action that seeks to recover penalties or damages. There are also criminal consequences under federal law for intentional participation in the submission of a false claim.

Federal Whistleblower Provisions

Any person may bring an action under this law on behalf of the government (called a “qui tam relator” or “whistleblower” suit) in federal court. The case is initiated by causing a copy of the complaint and all available relevant evidence to be served on the federal government. The case will remain sealed for at least 60 days and will not be served on the defendant so the government can investigate the complaint. The government may obtain additional time for good cause. The government on its own initiative may also initiate a case under the FCA.

After the 60-day period (or any extensions) has expired, the government may pursue the matter in its own name or decline to proceed. If the government declines to proceed, the person bringing the action has the right to conduct the action on his or her own in federal court.

If the government proceeds with the case, the qui tam whistleblower bringing the action will receive between 15 and 25 percent of any proceeds, depending on the contributions of the individual to the success of the case. If the government declines to pursue the case and the whistleblower chooses to pursue the matter legally, the whistleblower will be entitled to between 25 and 30 percent of the proceeds of the case, plus reasonable expenses, attorney’s fees, and costs awarded against the defendant.

Any case must be brought within 6 years of the filing of the false claim.

Antidiscrimination /Anti-retaliation

According to the Code and the provisions of this law, anyone initiating a complaint or reporting a violation may not be discriminated or retaliated against or harassed in any manner by his or her employer. The employee is authorized under the FCA to initiate court proceedings to be made whole for any job-related losses resulting from any such discrimination or retaliation, including reinstatement, back pay, and other appropriate compensation.

Program Fraud Civil Remedies Act

The Program Fraud Civil Remedies Act (the “PFCRA”) creates administrative remedies for making false claims separate from, and in addition to, the judicial or court remedy for false claims provided by the FCA.

Revised 12/31/2018

Approved by CAB 1/11/2019

The PFCRA is quite similar to the FCA in many respects but is somewhat broader and more detailed, with differing penalties. It deals with submission of improper “claims” or “written statements” to a federal agency.

Specifically, a person violates this act if he or she knows, or has reason to know, he or she is submitting a claim that is:

-) False, fictitious, or fraudulent;
-) Includes, or is supported by, a written statements that are false, fictitious, or fraudulent;
-) Includes, or is supported by, a written statement that omits a material fact, or the statement is false, fictitious, or fraudulent as a result of the omission, and the person submitting the statement has a duty to include the omitted facts; or
-) For payment for property or services not provided as claimed.

A violation of this prohibition carries a \$5,000 civil penalty for each such wrongfully filed claim. In addition, an assessment of two times the amount of the claim may be made, unless the claim has not actually been paid.

A person also violates this act if he or she submits a written statement that he or she knows or should know:

-) Asserts a material fact which is false, fictitious, or fraudulent; or
-) Omits a material fact and is false, fictitious, or fraudulent as a result of the omission. In this situation, there must be a duty to include the fact and the statement submitted contains a certification of the accuracy or truthfulness of the statement.

A violation of the prohibition for submitting an improper statement carries a civil penalty of up to \$5,000.

State Laws Relating to False Claims Recovery and Whistleblowers

Many states have enacted statutes directed at prosecuting Medicaid fraud. Life Care currently operates in 28 states, and any false claims and whistleblower laws in those states will govern the company's operations in these states. Many of them are based on the provisions of the federal laws outlined above, and a portion of the DRA has established a procedure to encourage states to adopt such laws if they do not currently have them, or to model their law's minimum requirements after the federal law. Recent guidance from the OIG outlines the elements these state laws must contain. See Federal Register, Vol. 71, No. 161, pages 48552-48554.

Further information regarding the details of the current applicable state laws in the states that Life Care operates is included as an attachment at the end of this policy.

Procedures

Life Care's existing procedures for detecting and preventing fraud, waste and abuse are found more completely in the Code, particularly in the provisions related to Life Care conducting business with the government. Associates should observe the policy and report any departure from it, as set forth herein.

As with the Code, the Chief Compliance Officer is responsible for administration of Life Care's Compliance program, including this policy. As part of its commitment to ethical and legal conduct, Life Care expects its associates to bring information regarding violations of the Code to the attention of their immediate supervisor, another supervisor in their chain of command, or the Compliance department. Associates who have questions regarding the applicability or interpretation of this policy or who desire to report fraud, false claims, waste, abuse, or a violation of the Code should discuss the matter with their supervisor or another supervisor in their chain of command or contact Life Care's Compliance department by calling 1-877-423-8305 (toll-free with no caller ID) or via the internet at <http://www.lcca.ethicspoint.com/>.

Written correspondence relating to the Code or this policy may also be sent to Life Care Centers of America, 3001 Keith St. NW, Cleveland, TN 37312, and should be marked **Confidential: To be opened by the Chief Compliance Officer**. Reports, whether verbal or written, shall remain confidential to the extent permitted by law and Life Care's policies, and to the extent that it is

Revised 12/31/2018

Approved by CAB 1/11/2019

possible and practical. If any report is made by an associate, he or she will be given the opportunity to receive information relative to the outcome of any investigation conducted by the Compliance Department.

Term	Definition
Centers for Medicare and Medicaid Services (CMS)	The Federal agency responsible for administering Medicare, Medicaid, SCHIP (State Children’s Health Insurance), HIPAA (Health Insurance Portability and Accountability Act), CLIA (Clinical Laboratory Improvement Amendments), and several other health related programs
The Code	Life Care’s Code of Conduct
Deficit Reduction Act of 2005 (DRA)	A federal statute that requires employers to establish certain policies and to provide its employees, agents, and contractors information regarding federal and state false claims laws and related statutes, the penalties for wrong doing under these laws, and the protections for whistleblowers who report violations of these provisions
False Claims Act (FCA)	A federal statute that prohibits fraud in any federally funded contract or program, including Medicare and Medicaid
Office of Inspector General (OIG)	The agency within the Department of Health and Human Services charged with investigating fraud and abuse
Program Fraud Civil Remedies Act (PFCRA)	A federal statute that creates administrative remedies for making false claims separate from, and in addition to, the judicial or court remedy for false claims provided by the False Claims Act
Qui tam relator suit	An action under law brought by a person on behalf of the government
Whistleblower	A person who brings an action under law on behalf of the government

Miscellaneous

Code of Conduct

Revision History

04/28/2011	06/26/2015	12/31/2018
12/12/2012	09/30/2015	
02/25/2014	11/30/2016	
10/10/2014	03/01/2018	

Revised 12/31/2018

Approved by CAB 1/11/2019

State	State Law Summaries
Arizona	<p>Under Arizona law, a person may not, among other things, present or cause to be presented to the state or its contractor the following: (1) a claim for a medical or other item or service that the person knows or has reason to know was not provided as claimed; and (2) a claim for a medical or other item or service that the person knows or has reason to know is false or fraudulent.</p> <p>A violation of these Arizona laws may result in a civil penalty up to \$2,000 per false claim and two times the amount claimed for each item or service, plus the state's costs to pursue reimbursement, as well as suspension or termination from the Medicaid program. There is no statute of limitations for actions brought by the State of Arizona.</p> <p>Currently, unlike the federal False Claims Act, Arizona FCA law only permits the state government and not private citizens or employees to file civil lawsuits to recover monetary damages. There are no provisions for a private citizen to share a percentage of any monetary recoveries. However, similar to Federal law, various Arizona laws, including Arizona's public and private sector whistleblower laws, prohibit public and private employers from retaliating against any employee who discloses, in good faith, a violation of state law to their supervisor or a state agency.</p> <p>Legal Citations: Ariz. Rev. Stat. Ann. §§ 36-2918 and 36-2957; Ariz. Rev. Stat. Ann. § 13-2311; ; Ariz. Rev. Stat. § 13-3713; Ariz. Rev. Stat. Ann. §§ 38-531 to 38-532; Ariz. Rev. Stat. Ann. §§ 23-1501 to 23-1502; Ariz. Rev. Stat. Ann. § 12-510.</p>
California	<p>California has a state FCA that is very similar to the federal FCA insofar as it is actionable, among other things, to: knowingly submit a false claim for payment; make or use a false record or statement to get a claim paid; conspire to make a false claim or get one paid; or make or use a false record to avoid repayments to the government.</p> <p>However, under the California FCA, a person or entity may also be liable if he or she is a beneficiary of an inadvertent submission of a false claim to the state, subsequently discovers that the claim is false, and fails to disclose the false claim to the state within a reasonable time after discovery of the false claim. The California FCA also differs from the federal FCA in that it does not apply to any claim of less than \$500 in value or claims involving workers' compensation, records or statements made under the Revenue and Taxation Code, or claims against public</p>

<p>California (Cont.)</p>	<p>entities and employees. Penalties range from \$5,500 to the maximum per claim penalty of \$11,000.</p> <p>Like the federal FCA, the whistleblower protection provisions contained in the California FCA prevent employers from retaliating against employees who report to the government their employer’s false claims. An employee is not protected under the whistleblower protection provisions if his or her participation in the conduct directly or indirectly resulted in a false claim being submitted to the state or a political subdivision unless:</p> <ul style="list-style-type: none"> • The employee voluntarily disclosed information to a government law enforcement agency or acted in furtherance of a false claims action, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed; and • The employee has been harassed, threatened with termination or demotion, or otherwise coerced by the employer or its management into engaging in the fraudulent activity in the first place. <p>California’s FCA has a <i>qui tam</i> provision which allows for individuals to bring claims on behalf of the state and receive between 15 and 33 percent of any amount recovered in a successful action.</p> <p>Legal Citations: CA. GOVT. CODE §§ 12650 to 12656; Cal. Wel. & Inst. Code § 14107.2; Cal. Penal Code § 72.</p>
<p>Colorado</p>	<p>Colorado has adopted a Medicaid anti-fraud statute that is intended to prevent the submission of false and fraudulent claims to the Colorado Medicaid program. The statute makes it, among other things, unlawful for any person to knowingly make or cause to be made a false record or statement material to a false or fraudulent claim, present or cause to be presented to the state department a false claim for payment or approval, or present or cause to be presented false cost document required by the medical assistance program that the person knows contains a false material statement. Violations of the Colorado anti-fraud statute are civil offenses and are punishable by significant monetary penalties of not less than \$5,500 and no more than \$11,000, plus three times the amount of damages sustained by the State because of the person’s actions.</p>

<p>Colorado (Cont.)</p>	<p>In the State of Colorado, all actions for fraud, misrepresentation, concealment, or deceit must be brought within 3 years after the cause of action accrues.</p> <p>The above Medicaid anti-fraud statute contains <i>qui tam</i> or relator provisions, which allows a person to bring an action on behalf of the State and recover at least 15 percent but no more than 25 percent of the proceeds of the action or settlement, if the Attorney General intervenes. If the Attorney General does not intervene, then the whistleblower bringing the action or settling the claim may be entitled to 25 to 30 percent of the proceeds, as well as reasonable expenses and attorney’s fees. The Medicaid Anti-Fraud Statute also contains whistleblower provisions which provide a remedy for persons retaliated against for reporting an employer’s false claims.</p> <p>Legal Citations: Colo. Rev. Stat. §§ 25.5-4-304 - 310; Colo. Rev. Stat. § 13-80-101; Colo. Rev. Stat. § 18-5-114; Colo. Rev. Stat. 26-1-127.</p>
<p>Florida</p>	<p>The Florida FCA is intended to deter persons from knowingly causing or assisting in causing the state government to pay claims that are false or fraudulent, and to provide remedies for obtaining treble damages and civil penalties for the state government when money is obtained from the state government by reason of a false or fraudulent claim.</p> <p>Florida’s FCA is very similar to the federal FCA. Actions and conduct that trigger penalties under the Florida FCA are the same as those that trigger penalties under the federal FCA. These include: knowingly submitting a false claim for payment; making or using a false record or statement to get a claim paid; conspiring to make a false claim or get one paid; or making or using a false record to avoid repayments to the government. Effective July 1, 2007, Florida further amended its FCA to more closely align with the federal FCA. For example, Florida revised its statute of limitations so that it mirrors the federal FCA statute of limitations (effectively can pursue claims submitted 6 years from the filing of the complaint). Florida has also increased the potential civil penalties that may be imposed to the same amounts proscribed by the federal FCA (\$5,500 to \$11,000 per claim).</p>

<p>Florida (Cont.)</p>	<p>The Florida FCA has a whistleblower or <i>qui tam</i> provision identical to the federal FCA. The whistleblower may recover between 15 to 25 percent of the award if the government intervenes and between 25 and 30 percent if the government does not intervene. The Florida FCA also has a whistleblower protection provision that prohibits employers from retaliating against employees who report their employer’s potentially false claims or who assist with a FCA action.</p> <p>Legal Citations: FLA. STAT. §§ 68.081 - 68.09.</p>
<p>Georgia</p>	<p>Georgia’s FCA is part of the State’s Medicaid laws. Georgia’s FCA, called the “State False Medicaid Claims Act,” is similar to the federal FCA including that it is actionable to knowingly submit a false claim for payment; make or use a false record or statement to get a claim paid; and conspiring to make a false claim or get one paid. The Georgia FCA applies only to claims submitted to the State Medicaid Program. The actions and events that trigger penalties under the Georgia FCA are very similar to those that trigger penalties under the federal FCA. Specifically, these include: knowingly submitting a false claim for payment; making or using a false record or statement to get a claim paid; conspiring to make a false claim or get one paid; or making or using a false record to avoid repayments to the government.</p> <p>An FCA claim must be brought within 6 years from when the violation occurred. Penalties include treble damages (actual loss to state multiplied by three times) and penalties are consistent with those under the federal False Claims Act, 31 U.S.C. 3729(a), adjusted for inflation. The Georgia FCA also has a whistleblower or <i>qui tam</i> provision nearly identical to the federal FCA (whistleblowers may recover up to 30 percent of the state’s recovery), as well as a whistleblower protection provision that prohibits employers from retaliating against employees who report their employer’s potentially false claims or who assist to bring a FCA action.</p> <p>Legal Citations: GA. CODE ANN. §§ 49-4-168 <i>et seq.</i></p>
<p>Hawaii</p>	<p>Hawaii’s FCA is nearly identical to the federal FCA with actions and conduct that trigger penalties that are substantially similar to those that trigger penalties under the federal FCA. Specifically, these include, among other things: knowingly submitting a false claim for payment; making or using a false record or statement to get a claim paid; conspiring to make a false claim or get one paid; or making or</p>

<p>Hawaii (Cont.)</p>	<p>using a false record to avoid repayments to the government. However, under the Hawaii FCA, a person or entity may also be liable if he or she: is a beneficiary of an inadvertent submission of a false claim to the state; subsequently discovers that the claim is false; and fails to disclose the false claim to the state within a reasonable time after discovery of the false claim. Additionally, the Hawaii FCA does not apply to any false claim of less than \$500.</p> <p>Civil penalties under the law include treble damages and between \$5,500 and \$11,000 per false claim. A civil suit must be brought within 6 years after the violation is discovered or should have been discovered, but no more than 10 years after the violation was committed.</p> <p>Hawaii’s FCA also has a whistleblower or <i>qui tam</i> provision nearly identical to the FCA. Whistleblowers may recover up to 30 percent of the State’s recovery. Hawaii’s FCA contains provisions that prohibit employers from retaliating against employees who report their employer’s potentially false claims or who assist to bring a FCA action.</p> <p>Legal Citations: HAW. REV. STAT. §§ 661-21 TO 661-31; HAW. REV. STAT. §§ 378-61 TO 378-69; HAW. REV. STAT. §§ 46-171 TO 46-179.</p>
<p>Idaho</p>	<p>Similar to the federal FCA, the Idaho Public Assistance Law and associated regulations impose liability on any person who, with intent to defraud or deceive, makes, or causes to be made or assists in the preparation of any false statement, representation, or omission of a material fact in any claim or application for any payment, regardless of amount, from the Medicaid Agency, knowing the same to be false. These Idaho laws prohibit, among other things: (1) knowingly obtaining, or attempting to obtain, or aiding or abetting any person in obtaining, by means of a willfully false statement or representation, person in obtaining, by means of a willfully false statement or representation, material omission, or fraudulent devices, public assistance, relief or federal-aid assistance not entitled, or in an amount greater than that justly entitled; and (2) knowingly, with intent to defraud, by means of a willfully false statement or representation or by deliberate concealment of any material fact, or any other fraudulent scheme or device: (a) presenting for allowance or payment any false or fraudulent claim for furnishing</p>

<p>Idaho (Cont.)</p>	<p>services or supplies; or (b) attempting to obtain or to obtain authorization for furnishing services or supplies; or (c) attempting to obtain or to obtain compensation from public funds greater than that to which he is legally entitled for services or supplies furnished or purportedly furnished.</p> <p>A violation of these Idaho laws may result in a civil penalty of \$1,000 for each false claim, plus three times the amount by which any figure is falsely overstated, restitution to the state of falsely claimed amounts and suspension or termination from the Medicaid program. In addition, any person who violates these laws commits a felony punishable by imprisonment for 1 to 20 years and a fine not to exceed \$10,000. In Idaho, the statute of limitations for an action for relief on the ground of fraud or mistake is 3 years. The cause of action in such case does not accrue until the discovery, by the aggrieved party, of the facts constituting the fraud or mistake.</p> <p>These Idaho laws do not contain <i>qui tam</i> or relator provisions. However, similar to the federal FCA, the Idaho Protection of Public Employees Act prohibits retaliating, discriminating or harassing state employees who report a violation of state law or who cooperate in any investigation of waste of public funds, property or manpower, or a violation of a law or regulation. Idaho law does not contain similar protections for non-governmental employees.</p> <p>Legal Citations: Idaho Code Ann. § 56-227; Idaho Code Ann. § 56-227A; Idaho Code Ann. § 56-227B; Idaho Code Ann. § 56-209h; Idaho Code Ann. §§ 18-2401 to 18-2421; Idaho Code Ann. §§ 6-2101 to 6-2109; Idaho Code Ann. § 5-218.</p>
<p>Indiana</p>	<p>Indiana has a FCA that is similar to the federal FCA with actions and conduct that trigger penalties that are substantially similar to those that trigger penalties under the federal FCA. Specifically, the Indiana FCA prohibits, among other things: knowingly submitting a false claim for payment; making or using a false record or statement to get a claim paid; conspiring to make a false claim or get one paid; or making or using a false record to avoid repayments to the government. The Indiana FCA applies to false claims involving the state or any agency of state Indiana FCA applies to false claims involving the state or any agency of state government, but does not apply to a political subdivision.</p>

<p>Indiana (Cont.)</p>	<p>The minimum civil penalty is \$5,000 per claim with up to treble damages. A civil lawsuit under the Indiana FCA may be brought within 6 years after the date the violation was discovered or not later than 3 years after the date when facts material to the cause of action are discovered or reasonably should have been discovered by a state officer or employee who is responsible for addressing the false claim, but no more than 10 years after the violation was committed.</p> <p>The Indiana FCA has a whistleblower or <i>qui tam</i> provision nearly identical to the federal FCA and it also has whistleblower protection provisions similar to the federal FCA provisions, which prohibit employers from retaliating against employees who report their employer’s potentially false claims and offers substantial penalties against those employers that do.</p> <p>Indiana also has a state Medicaid False Claims and Whistleblower Protection Act, which prohibits among other things (1) knowingly presenting or causing a false or fraudulent claim; (2) knowingly making or using a false record that is material to a false or fraudulent claim; (3) knowingly not returning an overpayment; (4) conspiring to submit a false claim or withhold an overpayment. Civil penalties include a minimum penalty of \$5,500 and maximum penalty of \$11,000, and for up to three times the amount of damages sustained by the state. Additionally, an individual who violates these provides is liable to the state for the costs of a civil action brought to recover a penalty or damages. The Act also prohibits employment retaliation for reporting of false claims. Relief from employment retaliation includes reinstatement, two times the amount of back pay, interest on the back pay; and compensation for costs and expenses of litigation and reasonable attorney's fees.</p> <p>Legal Citations: IND. CODE §§ 5-11-5.5-1 to 5-11-5.5-18; Ind. Code §§ 5-11-5.7-1 through 5-11-5.7-18,</p>
<p>Kansas</p>	<p>Kansas’ Medicaid Fraud Control Act makes it unlawful, among other things, for a person to submit false and fraudulent claims to the Kansas Medicaid program. Violation of the Act is a criminal offense punishable by substantial fines and imprisonment. Additionally, violators of the Act may be liable for payment of full restitution to the State plus interest and all reasonable expenses. Violators may also be barred from Medicaid participation. The Act does not contain an explicit</p>

<p>Kansas (Cont.)</p>	<p>statute of limitations. However, general actions for fraud have a 2 year statute of limitations.</p> <p>The Kansas Medicaid fraud laws do not contain <i>qui tam</i> or relator provisions. However, by statute, Kansas public employees are protected in their right to report violations of state or federal law to any person or agency. The Supreme Court of Kansas has held that the termination of an employee of a private medical facility in retaliation for reporting infractions of the Medicaid laws is an actionable tort.</p> <p>Kansas also has a state False Claims Act, which prohibits, among other things, knowingly presenting a false claim for payment or approval to the State of Kansas, or failing to disclose and repay submitted claims discovered to be false. Civil penalties range from \$1,000 to \$11,000 for each violation, plus treble damages. The Act does not provide a private cause of action. The statute of limitations is 6 years after the violation occurs or no more than 3 years after the violation was discovered or reasonably should have been discovered, but no more than 10 years from the date the violation was committed, whichever is last. The Act also prohibits employment retaliation for reporting under the False Claims Act.</p> <p>Legal Citations: Kan. Stat. Ann. §§ 21-5925, <i>et seq.</i>; Kan. Stat. Ann. § 75-7501 <i>et seq.</i>; Kan. Stat. Ann. § 75-725 and 75-726; Kan. Stat. Ann. § 60-513; Kan. Stat. Ann. § 75-2973; <i>Palmer v. Brown</i>, 242 Kan. 893, 752 P.2d 685.</p>
<p>Kentucky</p>	<p>Kentucky’s prohibition on medical assistance fraud makes it unlawful, among other things, for a person to submit false and fraudulent claims to the Kentucky Medical Assistance Program. The statute also makes it unlawful for any person to present false information regarding an institution or facility so that it may be licensed or recertified as a Medical Assistance Program provider.</p> <p>A violation of these Kentucky laws may result in civil monetary penalties of \$500 for each false claim, plus three times the amount unlawfully received plus interest, payment of the government’s expenses to pursue reimbursement, and exclusion from the Medical Assistance Program and/or loss of an individual’s professional license for up to 5 years. In addition, a corporation who violates these laws commits a crime punishable by a fine not to exceed \$20,000 or double the amount of the corporation’s gain from the offense, whichever is greater. An individual who violates these laws commits a crime punishable by imprisonment for up to 10 years</p>

<p>Kentucky (Cont.)</p>	<p>and a fine not to exceed \$10,000 or double the amount of the individual’s gain from the offense, whichever is greater. Kentucky’s Control of Fraud and Abuse laws contain no explicit statute of limitations.</p> <p>Currently, the Kentucky fraud control provisions do not contain <i>qui tam</i> or relator provisions. Additionally, there are no provisions for a private citizen to share a percentage of any monetary recoveries. However, like federal law, Kentucky’s Control of Fraud and Abuse law prohibits employers from retaliating or discriminating any person because of their good faith participation in a false claims disclosure. These laws also provide for certain monetary awards and equitable relief to the prevailing plaintiff including compensation for lost wages, the cost of the lawsuit and reasonable attorney’s fees.</p> <p>Legal Citations: Ky. Rev. Stat. §§ 205.8451 <i>et seq.</i>; Ky. Rev. Stat. § 534.030; Ky. Rev. Stat. § 534.050; Ky. Rev. Stat. §§ 61.101 to 61.103; Ky. Rev. Stat. § 532.060.</p>
<p>Massachusetts</p>	<p>Massachusetts has a state FCA that is very similar to the federal FCA with actions and conduct that trigger penalties that are substantially similar to those that trigger penalties under the federal FCA. Specifically, these include: knowingly submitting a false claim for payment; making or using a false record or statement to get a claim paid; conspiring to make a false claim or get one paid; or making or using a false record to avoid repayments to the government. In addition to the above, under the Massachusetts FCA, a person or entity may also be liable if he or she is a beneficiary of an inadvertent submission of a false claim to the state, subsequently discovers that the claim is false, and fails to disclose the false claim to the state within a reasonable time after discovery of the false claim. Further, a corporation may be liable to the state for any of the above listed acts committed by its agent if the agent acted with apparent authority. This is true regardless of whether the agent acted to benefit the corporation or regardless of whether the corporation adopted the agent’s claims or action. However, the Massachusetts FCA does not apply to claims, records or statements made or presented to establish, limit, reduce, or evade liability for the payment of tax to the Commonwealth, or any other governmental entity.</p> <p>Civil penalties of between \$5,500 and \$11,000 per claim may be imposed with up to treble damages plus reasonable expenses. A civil lawsuit under the Massachusetts FCA must be brought within the later of: (1) 6 years after the violation was</p>

<p>Massachusetts (Cont.)</p>	<p>committed, or (2) 3 years after the date the violation was discovered (but no more than 10 years after the violation was committed).</p> <p>The Massachusetts FCA has a whistleblower or <i>qui tam</i> provision nearly identical to the federal FCA and it also has whistleblower protection provisions that are substantially similar to the federal FCA provisions. The whistleblower may recover between 15 to 25 percent of the award if the government intervenes and between 25 and 30 percent if the government does not intervene. Massachusetts’ whistleblower provision prohibits employers from preventing an employee from disclosing information about his or her employer’s potentially false claims or retaliating against employees who report such potentially false claims. Additionally, under Massachusetts’s law, employers are prohibited from requiring as a condition of employment that any employee agree to accept or sign any agreement that limits or denies the employee’s right to bring an action or provide information to a government or law enforcement agency.</p> <p>Additionally, Massachusetts prohibitions on false claims make false claims to a state agency, as well as false claims which are payable through medical assistance, punishable by a fine up to \$10,000 and imprisonment up to five years.</p> <p>Legal Citations: MASS. GEN. LAWS ch. 12, §§ 5A – 5O; Mass. Gen. Laws ch. 266, §67B; Mass. Gen. Laws ch. 118E, § 40; Mass. Gen. Laws ch. 175H, § 1.</p>
<p>Michigan</p>	<p>The Michigan FCA, also referred to as the “Medicaid False Claim Act,” applies only to claims and statements made to the Michigan Medicaid Program. This law contains many of the same provisions as the federal FCA with actions and conduct that trigger it that are similar to those that trigger the federal FCA. Specifically, these include, among other things: knowingly submitting a false claim for payment; making or using a false record or statement to get a claim paid; conspiring to make a false claim or get one paid; or making or using a false record to avoid repayments to the government. Because the Michigan law focuses on claims made to the Medicaid program, there are additional provisions addressing the veracity of claims and statements regarding rights to Medicaid benefits. Additionally, it is a violation to knowingly make or induce false statements with respect to the conditions of operation in order to obtain certification as a hospital, skilled nursing facility, intermediate care facility, or home health agency. It is also a violation of the Michigan</p>

Michigan (Cont.)	<p>Medicaid FCA to conspire with a physician to falsely represent the medical necessity of the services for which a claim is made.</p> <p>Violators of the Michigan Medicaid FCA are potentially subject to both criminal and civil penalties. Under Michigan Medicaid FCA criminal penalties, anyone who agrees to or conspires to defraud the state with a false claim is guilty of felony, punishable by imprisonment for 10 years or less, or a fine of \$50,000 or less or both. Further, anyone who knowingly makes or induces false statements of material fact with respect to the conditions of operations of a health care facility as described above is guilty of felony, punishable by imprisonment for 4 years or less, or a fine of \$30,000 or less or both. Conspiring to falsely represent the medical necessity of the services for which a claim is made is a felony punishable by imprisonment for 4 years or less or a fine of not more than \$50,000 or less or both.</p> <p>Civil penalties under the Michigan Medicaid FCA range from a fine of \$5,000 to \$10,000 for each claim plus triple the amount of damages suffered by the state as a result of the person's conduct.</p> <p>The Michigan Medicaid FCA also has a <i>qui tam</i> whistleblower provision permitting a person to bring a suit on behalf of the government that is very similar to the federal FCA <i>qui tam</i> provisions. The provision permits the whistleblower to receive up to 25 percent of the award if the government intervenes or up to 30 percent of the award if the government does not intervene.</p> <p>The Michigan Medicaid FCA also contains whistleblower protection provisions that prohibit an entity from adopting or enforcing a rule, regulation or policy preventing or retaliating against employees who report their employer's potentially false claims. This prohibition does not apply to an employment action against an employee whom the court finds brought a frivolous claim, or participated, planned or initiated the conduct upon which the action is brought.</p> <p>Legal Citations: MICH. LAW. ANN. §§ 400.601 to 400.615; Mich. Comp. Laws Serv. § 15.361, et seq.; Mich. Comp. Laws Serv. § 752.1001, et seq.</p>
---------------------	--

Missouri	<p>The Missouri FCA is referred to as the “Health Care Payment Fraud and Abuse” statute and applies to claims and statements made to any health care payer. A health care payer is defined as a “medical assistance program [e.g. Missouri HealthNet] or any person reviewing, adjusting, approving or otherwise handling claims for health care on behalf of or in connection with a medical assistance program.” Missouri’s health care payment fraud law contains similar provisions to the federal FCA and the actions and conduct that trigger the Missouri FCA are similar to those that trigger the federal FCA. Specifically, these include:</p> <ul style="list-style-type: none">) Knowingly presenting a claim for payment that falsely represents that the health care provided was medically necessary when it was in fact not necessary;) Knowingly concealing the occurrence of any event affecting an initial or continued right under a medical assistance program to have a health care payment made by a health care payer for providing health care;) Knowingly concealing or failing to disclose information to obtain health care payment in an amount greater than that which the health care provider is entitled or for payment to which the health care provider is not entitled;) Knowingly submitting a claim that falsely indicates that health care was provided if in fact health care of lesser value was provided. <p>Note that Missouri’s definition of “knowing or knowingly” differs from the federal FCA’s definition. Missouri defines “knowing and knowingly” to include the term, “intentionally”, which means that a person, with respect to information, intended to act in violation of the law.</p> <p>Criminal penalties begin as Class A misdemeanor and move to Class E felonies for repeat offenders. If a person or entity is convicted, the matter will be referred to the Office of Inspector of the Department of Health and Human Services. The individual entity will also be subject to penalties provided for under the federal FCA. Civil penalties call for \$5,000 to \$10,000 per claim as well as up to three times the amount of the damage caused to the state.</p> <p>Under the Missouri FCA, whistleblowers are entitled to 10 percent of the amount recovered by the State. In the summer of 2007, the Missouri legislature enacted</p>
----------	---

<p>Missouri (Cont.)</p>	<p>whistleblower protection provisions that prohibit an entity from adopting or enforcing a rule, regulation or policy preventing or retaliating against employees who report their employer’s potentially false claims. This prohibition does not apply to an employment action against an employee whom the court finds brought a frivolous claim or participated in the prohibited conduct.</p> <p>Legal Citations: MO. REV. STAT. §§ 191.900 – 191.914.</p>
<p>Nebraska</p>	<p>Under Nebraska’s False Medicaid Claims Act, a person presents a false Medicaid claim if such person: (1) knowingly presents to an employee of the state, a false or fraudulent claim for payment or approval; (2) knowingly makes or uses a false record or statement to obtain payment or approval by the state of a false or fraudulent claim; (3) conspires to defraud the state by obtaining payment or approval by the state of a false or fraudulent claim; (4) has possession, custody, or control of property or money used, or to be used, by the state and, intending to defraud the state and knowingly delivers, or causes to be delivered, less property than the amount for which such person receives a certificate or receipt; (5) is authorized to make or deliver a document certifying receipt of property used, or to be used, by the state and, intending to defraud the state, makes or delivers the receipt knowing that the information on the receipt is not true; (6) buys, or receives as a pledge of an obligation or debt, public property from any officer or employee of the state knowing that such officer or employee may not lawfully sell or pledge such property; or (7) knowingly makes or uses a false record or statement with the intent to avoid, or decrease an obligation to pay money or property to the state.</p> <p>A person presenting a false Medicaid claim is subject to civil liability of not more than \$10,000 and to damages in the amount of three times the amount of the false claim. If the state is the prevailing party, the defendant is liable for the state's costs and attorney's fees in addition to the above stated penalties and damages. Liability under this section is joint and several for any act committed by two or more persons.</p> <p>Under Nebraska’s False Medicaid Claims Act, a civil suit for liability must be brought within 6 years after the claim is discovered and no more than 10 years after the</p>

<p>Nebraska (Cont.)</p>	<p>violation was committed. . The state has the burden to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.</p> <p>The Nebraska False Medicaid Claims Act does not contain <i>qui tam</i> or relator provisions. Additionally, there are no provisions for a private citizen to share a percentage of any monetary recoveries. Nebraska law does prohibit employers from discriminating against any employee of a health care facility who has initiated or participated in any proceeding authorized by the Health Care Facility Licensure Act or who has presented a complaint or provided information to the facility administrator or the Department of Health and Human Services. The Nebraska Fair Employment Act also makes it unlawful to discriminate against any employee for opposing any practice or refusing to carry out any action unlawful under federal law or the laws of this state. This provision has been interpreted to apply to whistle blowing of the employer’s unlawful acts.</p> <p>Legal Citations: Neb. Rev. Stat §§ 68-934 – 68.947; Neb. Rev. Stat § 71-445; Neb. Rev. Stat § 48-1114; <i>Wolfe v. Becton Dickinson and Co.</i>, 662 N.W.2d 599 (2003).</p>
<p>Nevada</p>	<p>Nevada has a state FCA that is very similar to the federal FCA and applies to any claims and statements made to state or local governments. The actions and conduct that trigger penalties under the federal FCA are the same as those that trigger civil penalties under the Nevada FCA. Specifically, these include, among others: knowingly submitting a false claim for payment; making or using a false record or statement to get a claim paid; conspiring to make a false claim or get one paid; making or using a false record to avoid repayments to the government; or knowingly concealing and improperly avoiding or decreasing an obligation to pay money to the state. Additionally, under the Nevada FCA, a person may also be liable if he or she is a beneficiary of an inadvertent submission of a false claim to the state, subsequently discovers that the claim is false, and fails to disclose the false claim to the state within a reasonable time after discovery of the false claim.</p> <p>Civil penalties of between \$5,500 to \$11,000 per claim, the costs of the civil action brought the damages, plus three times the amount of damages may apply. A civil suit under the Nevada FCA must be brought within the latter of 3 years after the violation is discovered by the state Attorney General or within 6 years after the violation occurs, but no more than 10 years after the fraudulent activity occurred.</p>

<p>Nevada (Cont.)</p>	<p>The Nevada FCA has a <i>qui tam</i> whistleblower provision permitting a person to bring a suit on behalf of the government that is very similar to the federal FCA <i>qui tam</i> provisions. The whistleblower may recover between 15 to 25 percent of the award if the government intervenes and between 25 and 30 percent if the government does not intervene. The Nevada FCA also has a whistleblower protection provision that is similar to the federal FCA provisions, which prohibits employers from retaliating against employees who report their employers’ potentially false claims.</p> <p>Legal Citations: NEV. REV. STAT. §§357.010-357-250.</p>
<p>New Mexico</p>	<p>New Mexico has a state FCA statute called Fraud Against Taxpayers Act that is similar to federal FCA. The New Mexico FCA applies to any money or service provided or reimbursed by the state. The statute makes it a crime to:</p> <ul style="list-style-type: none">) Knowingly present or cause to be presented, a false or fraudulent claim to the state for payment;) Knowingly make or use a false, misleading or fraudulent record or statement to obtain payment on a false or fraudulent claim;) Conspire to make or use a false, misleading or fraudulent record or statement to obtain payment on a false or fraudulent claim;) Conspire to make or use a false, misleading or fraudulent record or statement to avoid an obligation to transmit money to the state; or) Knowingly make, use, or cause to be made or used, a false, misleading or fraudulent record or statement to conceal, avoid, or decrease an obligation to pay or transmit money to the state; or) Fail to disclose, within a reasonable time after discovery, the inadvertent submission of a false claim. <p>The penalty for violating New Mexico’s FCA statute includes: three times the amount of damages sustained by the state; civil penalty of between \$5,000 and \$10,000 for each violation; costs of bringing the civil action; and other reasonable attorney fees, including the fees of the attorney general, state agency, or political subdivision counsel.</p> <p>There is no statute of limitation for bringing a civil action pursuant to the Fraud Against Taxpayers Act.</p>

New Mexico (Cont.)	<p>New Mexico FCA statute also has a <i>qui tam</i> provision that permits private individuals to bring civil actions on behalf of the state. The whistleblower may recover between 10 to 25 percent of the award if the government intervenes and between 25 and 30 percent if the government does not intervene.</p> <p>Under New Mexico's FCA statute, an employer is prohibited from making any rules or policies that prevent an employee from disclosing information to the government or law enforcement agency in furtherance of a fraud against taxpayers action. An employer is also prohibited from discharging, demoting, suspending, threatening, harassing, or denying promotion to, discriminating in any other manner against an employee for providing help to the government or law enforcement agency in furtherance of a fraud against taxpayers action.</p> <p>New Mexico has a Medicaid FCA that creates liability for anyone who:</p> <ul style="list-style-type: none"> • Presents, or causes to be presented, a claim for payment under the Medicaid program that is false or fraudulent;) Presents, or causes to be presented, to the state a claim for payment under the Medicaid program knowing that the person receiving a Medicaid benefit or payment is not authorized or is not eligible for a benefit under the Medicaid program;) Knowingly uses or makes a false record or statement to obtain a false or fraudulent claim under the Medicaid program.) Conspires to defraud the state by allowing a false or fraudulent claim to be paid under the Medicaid program, knowing the claims is false or fraudulent.) Knowingly makes or uses or causes to be made or used a false record to conceal, avoid, or decrease an obligation to repay or transmit money to the government.) Knowingly applies for and receives a benefit or payment on behalf of another person, except pursuant to a lawful assignment of benefits, under the Medicaid program and uses that benefit or payment for his own personal use; • Knowingly makes a false statement or misrepresentation of material fact concerning the conditions or operation of a health care facility in order that
-----------------------	---

<p>New Mexico (Cont.)</p>	<p>the facility may qualify for certification or recertification required by the Medicaid program; or</p> <ul style="list-style-type: none"> • Knowingly makes a claim under the Medicaid program for a service or product that was not provided. <p>A violation of the state Medicaid FCA may result in penalties of three times the amount of damages the state sustains because of the violation. Under the New Mexico Medicaid FCA, civil actions must be brought within 4 years after the alleged violation.</p> <p>Like the federal FCA, the New Mexico Medicaid FCA provides for a qui tam private right of action where a person may file suit on behalf of the government and can receive a share of any recovery (up to 25 percent if the government intervenes). If the government does not intervene, the qui tam plaintiff may receive a share of the recovery, up to 30 percent.</p> <p>The New Mexico Medicaid FCA also has a whistleblower protection provision that prohibits employers from retaliating against employees who investigate, initiate, testify, or otherwise assist in a civil false claims act action.</p> <p>Legal Citations: N.M. Stat. Ann. § 44-9-1 to N.M. Stat. Ann. § 44-9-14; N.M. Stat. Ann. §§ 27-14-1 to 27-14-15, N.M. Stat. Ann. § 37-1-4.</p>
<p>North Carolina</p>	<p>North Carolina has a state FCA that is very similar to the federal FCA. Under North Carolina FCA, liability exists for anyone who commits the following acts:</p> <ul style="list-style-type: none">) Knowingly presents or causes to be presented a false claim for payment;) Knowingly makes or uses, or causes to be made or used, a false record or statement material to a false claim) Knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money to the state or improperly avoids or knowingly conceals such an obligation to pay the state.) Conspires to present a false claim for payment or to use a false record that is material to a false claim or avoid an obligation to pay money to the state.

North Carolina (Cont.)	<p>The penalties for any of these offenses range from \$5,500 to \$11,000, as may be adjusted by Section 5 of the Federal Civil Penalties Inflation Adjustment Act of 1990, per violation, plus three times the damage caused.</p> <p>There is a private right of action and whistleblower protection under this statute, and the individual may recover up to 25 percent of any award if the state intervenes. If the state does not intervene, the whistleblower may recover up to 30 percent of the award.</p> <p>Under North Carolina FCA, a civil action must be brought within the later of: (1) 6 years after the violation was committed, or (2) 3 years after the date the violation was discovered (but no more than 10 years after the violation was committed).</p> <p>North Carolina FCA also prohibits employers from retaliating against an employee by demoting, suspending or harassing the employee if the employee provides any type of assistance in an action filed against the employer for violation of North Carolina's FCA statute. A civil action under this section must be brought within three years of the date of the retaliation.</p> <p>North Carolina also has a FCA for Medicaid programs that is known as the "Medical Assistance Provider FCA." It applies to claims made in connection with the North Carolina Medicaid Program. Actions and conduct that trigger penalties under the North Carolina FCA are substantially similar to those that trigger penalties under the federal FCA. Specifically, these include knowingly submitting, or causing to be submitted, a false or fraudulent claim for payment or making or using, or causing to be made or used, a false record or statement to get a claim paid. The North Carolina FCA contains an explicit statement that notes that the North Carolina law was intended to be interpreted and construed consistent with the federal FCA and any subsequent amendment to the federal FCA.</p> <p>Penalties for violating the North Carolina Medicaid Assistance FCA include fines of \$5,000 to \$10,000 per claim, plus three times the damage caused to the North Carolina Medical Assistance Program. If a payment has already been made to the federal government under the FCA for these same claims, then the party will not be charged again for these claims. A civil lawsuit under the North Carolina Medical</p>
---------------------------	---

<p>North Carolina (Cont.)</p>	<p>Assistance FCA must also be brought within the later of: (1) 6 years after the violation was committed, or (2) 3 years after the date the violation was discovered (but no more than 10 years after the violation was committed).</p> <p>Although there are no qui tam provisions, the North Carolina Medical Assistance FCA has a whistleblower protection provision that prohibits employers from retaliating against employees who report their employers’ potentially false claims or who participate in bringing or assisting with a FCA action.</p> <p>Legal Citations: N.C. Gen. Stat. §§ 108A-70.10 to 70.16; N.C. Gen. Stat. Ann. § 1-605 <i>et. seq.</i></p>
<p>Ohio</p>	<p>Ohio does not have a specific state FCA, but it does have other laws that prohibit false statements and claims associated with health care items or services. Ohio’s Medicaid fraud statutes prohibit a person from knowingly making or causing to be made a false or misleading statement or representation for use in obtaining reimbursement from the Ohio Medicaid Program</p> <p>Further, Ohio’s Medicaid fraud statutes prohibit anyone from doing either of the following for at least 6 years after a claim has been paid: (1) knowingly altering, falsifying, destroying, or removing any records that are necessary to disclose the nature of the services for which the claim was submitted; and (2) knowingly altering, falsifying, destroying, or removing records that are necessary to disclose all income and expenditures upon which rates of reimbursements were based.</p> <p>In general, violation of Ohio’s Medicaid fraud laws is a misdemeanor of the first degree. However, depending on the value of services and funds involved, it may rise to a felony of the third degree. Civil penalties include a payment between \$5,000 to \$10,000 for each falsification, three times the amount unlawfully received plus interest, payment of the government’s expenses to pursue reimbursement, and exclusion from the Medicaid program.</p> <p>Ohio insurance statutes also prohibit anyone from purposely or knowingly facilitating fraud on an insurer by presenting or causing presentation, or assisting, aiding, or conspiring with another to present or cause presentation, to an insurer any written or oral statement that is part of or in support of an application for</p>

<p>Ohio (Cont.)</p>	<p>insurance, a claim for payment pursuant to a policy, or a claim for any other benefit pursuant to a policy, knowing that the statement or any part of it is false or deceptive. The penalty for committing insurance fraud ranges from misdemeanor in the first degree to felony of the third degree.</p> <p>The above Ohio laws do not contain <i>qui tam</i> or relator provisions. Additionally, there are no provisions for a private citizen to share a percentage of any monetary recoveries.</p> <p>Ohio law, like federal law, prohibits employers from retaliating, discriminating against, or harassing employees because of their lawful participation in a false claims disclosure or their refusal to assist employers in violating laws such as the Ohio Medicaid fraud laws. These laws also provide for certain monetary awards and equitable relief to the prevailing plaintiff including compensation for lost wages and reinstatement to a former position. Ohio’s whistleblower law requires an employee to notify his/her employer, both orally and in writing, of any suspected illegal activity, policy or practice before disclosing it to the appropriate government agency. If the employer does not make a good faith effort to correct the asserted violation within 24 hours of receiving notice, the employee may file a written report of the violation with the county prosecuting attorney, law enforcement, any governmental entity that has regulatory authority over the employer or the inspector general.</p> <p>Legal Citations: Ohio Rev. Code § 2913.40; Ohio Rev. Code § 2913.47; Ohio Rev. Code §§ 4113.51 <i>et seq.</i>; Ohio Rev. Code § 2921.13; Ohio Rev. Code § 5164.35</p>
<p>Oregon</p>	<p>Oregon does not have a state FCA, but does have other laws that prohibit false statements associated with health care items or services. Under Oregon law, a person commits the crime of making a false claim for health care payment when the person: (1) knowingly makes or causes to be made a claim for health care payment that contains any false statement or false representation of a material fact in order to receive a health care payment; or (2) knowingly conceals from or fails to disclose to a health care payor the occurrence of any event or the existence of any information with the intent to obtain a health care payment to which the person is</p>

<p>Oregon (Cont.)</p>	<p>not entitled, or to obtain or retain a health care payment in an amount greater than that to which the person is or was entitled. Making a false claim for health care payment is a Class C felony punishable by up to 5 years in prison and a fine of up to \$125,000. There is a 5 year statute of limitations from time of the claim.</p> <p>Currently, these Oregon laws do not contain <i>qui tam</i> or relator provisions. Additionally, there are no provisions for a private citizen to share a percentage of any monetary recoveries.</p> <p>Like federal law, Oregon law includes whistle-blower protections. Various Oregon laws prohibit public employers and private health care employers from retaliating, discriminating or harassing employees because of their good faith disclosure of information about a violation of a law or rule or a violation that poses a risk to public or patient health, safety or welfare, or their refusal to assist employers in activity that the employee reasonably believes is in violation of a law or rule such as Oregon’s False Claims for Health Care Payments law. Oregon law also prohibits employers (public or private) from discriminating against any employee who in good faith reports criminal activity or who cooperates with law enforcement in an investigation or at trial.</p> <p>These Oregon employee protection laws provide for both administrative and civil remedies, which may include monetary awards for actual damages and punitive damages. The Oregon Hospital Anti-Retaliation Law requires any nursing staff to notify his/her employer in writing of any suspected illegal activity, policy, or practice before disclosing it to the appropriate government agency. This notice requirement does not apply to disclosures that the employee reasonably believes to be a crime or where the employee reasonably fears physical harm as a result of the disclosure or where an emergency exists.</p> <p>Legal Citations: Or. Rev. Stat. §§ 165.690 to 165.698; Or. Rev. Stat. §§ 165.990; Or. Rev. Stat. Ann. § 161.605; Or. Rev. Stat § 161.625; Or. Rev. Stat. §§ 659A.199 to 659A.224; Or. Rev. Stat. § 441.057; Or. Rev. Stat. § 659A.230 to 659A.233; Or. Rev. Stat §§ 180.750 – 180.785.</p>
<p>Pennsylvania</p>	<p>Pennsylvania does not have a specific state FCA, but does have laws that prohibit false Medicaid claims. Under Pennsylvania law, it is unlawful for any person to</p>

<p>Pennsylvania (Cont.)</p>	<p>knowingly or intentionally present for allowance or payment any false or fraudulent claim or cost report for furnishing services or merchandise under medical assistance, or to knowingly present for allowance or payment any claim or cost report for medically unnecessary services or merchandise under medical assistance, or to knowingly submit false information, for the purpose of obtaining greater compensation than that to which he is legally entitled for furnishing services or merchandise under medical assistance, or to knowingly submit false information for the purpose of obtaining authorization for furnishing services or merchandise under medical assistance. Pennsylvania's Medicaid FCA also prohibits any person from submitting a claim which misrepresents the description or date of services provided or to submit a claim for a service which was not rendered by the provider.</p> <p>A violation of these Pennsylvania laws may result in restitution of the excess benefits and payments, plus interest, and civil penalties, up to three times the amount of the excess benefits and payments, as well as suspension from the Medicaid program for 5 years. In addition, any person who violates these laws commits a felony of the third degree, punishable by imprisonment for up to 7 years and a maximum fine of \$15,000 for each violation. A second violation is classified as a second-degree felony, punishable by up to 10 years in prison and a \$25,000 fine. Information on any action taken against a person that violates these laws will also be forwarded to the Medicaid Fraud Control Unit of the Department of Justice and the appropriate licensing board.</p> <p>Currently, unlike the federal FCA, Pennsylvania law only permits the state government and not private citizens or employees to file civil lawsuits to recover monetary damages. Such civil lawsuits must be brought within 5 years of the date of the violation. There are no <i>qui tam</i> or relator provisions and there are no provisions allowing a private citizen to share a percentage of any monetary recoveries.</p> <p>Similar to Federal law, Pennsylvania's Whistleblower Law prohibits state employers from discharging, threatening or otherwise discriminating, or retaliating against state employees who report wrongdoing or waste. Pennsylvania law does not contain whistleblower protections for non- governmental employees.</p>
---------------------------------	--

<p>Pennsylvania (Cont.)</p>	<p>Legal Citations: 62 Pa. C.S. §§ 1407, 1411; 43 P.S. §§ 1421 to 1428.</p>
<p>Rhode Island</p>	<p>Rhode Island’s False Claims Act (“RIFCA”) is similar to the federal False Claims Act and prohibits any person or entity from submitting a false or fraudulent claim to the state of Rhode Island, including Rhode Island’s Medicaid program (<i>see below</i>). Under RIFCA, any person who (1) knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval; (2) knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim; (3) is authorized to make or deliver a document certifying receipt of property used, or to be used, by a government entity and, intending to defraud the government entity, makes or delivers the receipt without completely knowing that the information on the receipt is true; (4) knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to a government entity, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to a government entity; or (5) conspires to commit one or more of the above listed violations shall be liable to the State.</p> <p>A violation of RIFCA may result in treble damages plus a civil penalty of at least \$5,500 but no more than \$11,000. The violator is also liable to the Attorney General for the costs of a civil action brought to recover damages. The whistleblower may recover between 15 to 25 percent of the award if the government intervenes and between 25 and 30 percent if the government does not intervene.</p> <p>A civil lawsuit under the RIFCA must also be brought within the later of: (1) 6 years after the violation was committed, or (2) 3 years after the date the violation was discovered (but no more than 10 years after the violation was committed).</p> <p>In addition to RIFCA, Rhode Island’s Medicaid program has a similar FCA statute. Under this statute, it is unlawful to intentionally : (1) present or cause to be presented for preauthorization or payment any materially false or fraudulent claim or cost report for services or merchandise; (2) present or cause to be presented for preauthorization or payment any claim or cost report for medically unnecessary services or merchandise; (3) submit or cause to be submitted materially false or</p>

<p>Rhode Island (Cont.)</p>	<p>fraudulent information to obtain greater compensation than that to which the provider is legally entitled; (4) submit or cause to be submitted materially false information for the purpose of obtaining authorization for furnishing services or merchandise; and (5) submit or cause to be submitted any claim or cost report or other document which fails to make full disclosure of material information. Further, among other things, it also prohibits submission of duplicate claims or claims for services not actually rendered, claims that materially misrepresent the description, costs, or dates of services provided or the identity of the recipient or the provider.</p> <p>The statute of limitations is ten (10) years.</p> <p>A violation of these Rhode Island laws may result in restitution of the improper payment plus interest, a civil penalty of up to \$1,000 for each violation, damages equal to three times the amount of the excess charges, payment of the legal fees and costs of any civil suit, and suspension or permanent exclusion from the Medicaid program. In addition, any person who violates these laws may be guilty of crimes punishable by imprisonment for up to 10 years and a fine up to \$10,000, or both.</p> <p>Rhode Island’s Medicaid Assistance fraud law allows civil lawsuits to recover monetary damages to be filed by persons, including the Rhode Island Medicaid program, who have been injured by any violation of these laws. Such persons may recover up to three times the amount of the injury from the person or healthcare provider inflicting the injury.</p> <p>Like Federal law, Rhode Island’s Whistleblower’s Protection Act prohibits employers from retaliating, discriminating against, or harassing employees because of their lawful participation in a false claims disclosure or their refusal to assist employers in violating laws such as the Rhode Island Medical Assistance Fraud Law. A civil action may be brought within three years of the alleged violation for injunctive relief or actual damages. Actual damages include certain monetary awards and equitable relief to the prevailing plaintiff including compensation for lost wages and reinstatement to a former position.</p>
---------------------------------	--

<p>Rhode Island (Cont.)</p>	<p>Legal Citations: R.I. Gen. Laws §§ 9-1.1-1 to 9-1.1-9; R.I. Gen. Laws, §§ 40-8.2-1 to 40-8.2-23; R.I. Gen. Laws §§ 28-50-1 to 28-50-9.</p>
<p>South Carolina</p>	<p>South Carolina has not yet enacted a state FCA. However, South Carolina’s State Medicaid false claims statute provides criminal, civil, and administrative penalties and sanctions for healthcare providers who knowingly and willfully make or cause to be made a false claim, statement, or representation of a material fact: (1) in an application or request for a benefit, payment, or reimbursement from a state or federal agency which administers or assists in the administration of the state’s medical assistance or Medicaid program or (2) on a report, certificate, or similar document submitted to a state or federal agency which administers or assists in the administration of the state’s Medicaid program in order for a provider or a facility to qualify or remain qualified under the Medicaid program. It is also unlawful for a provider to knowingly and willfully conceal or fail to disclose any material fact, event, or transaction which affects payment or reimbursement under the state’s Medicaid plan. Each fact, event, or transaction concealed or not disclosed constitutes a separate offense.</p> <p>A violation of the South Carolina’s false claims laws may result in restitution for any improper payment and a civil penalty for false claims of up to \$2,000 for each excessive payment, three times the amount of the excess payments, and any other available administrative sanctions as provided by law. In addition, any person who violates these laws may be guilty of a Class A misdemeanor, punishable by imprisonment for up to 3 years and/or a fine up to \$1,000 for each offense.</p> <p>In addition, under South Carolina law, a person who knowingly causes to be presented a false claim for payment to an insurer or health maintenance organization in South Carolina, or who knowingly assists, solicits, or conspires with another to present a false claim for payment is guilty of a felony if the amount is greater than \$2,000. Upon conviction, and depending on the amount of the claim, a person may be imprisoned not more than 10 years or fined not more than \$5,000.</p> <p>Currently, unlike the federal FCA, South Carolina law only permits the state government and not private citizens or employees to file civil lawsuits to recover monetary damages. There are no <i>qui tam</i> or relator provisions and there are no</p>

<p>South Carolina (Cont.)</p>	<p>provisions allowing a private citizen to share a percentage of any monetary recoveries.</p> <p>Similar to Federal law, South Carolina does have a whistleblower statute, but this law relates only to state employers and prohibits state employers from retaliating against any state employee who discloses a violation of any federal, state, or local law, rule, regulation, or ordinance. South Carolina law does not contain similar protections for non-governmental employees.</p> <p>Legal Citations: S.C. Code Ann. §§ 43-7-60 to 43-7-70; S.C. Code Ann. §§ 8-27-10 to 8-27-50; S.C. Code Ann. § 38-55-170.</p>
<p>Tennessee</p>	<p>Tennessee has a state FCA that is very similar to the federal FCA. Actions and conduct that trigger penalties under the Tennessee FCA are the same as those that trigger penalties under the federal FCA. Specifically, these include, : knowingly submitting a false claim for payment; knowingly making or using a false record or statement to get a claim paid; conspiring to make a false claim or get one paid; or knowingly making or using a false record to avoid repayments to the government. However, under the Tennessee FCA, a person may also be liable if he or she is a beneficiary of an inadvertent submission of a false claim, subsequently discovers that the claim is false, and fails to disclose the false claim to the state within a reasonable time after discovery of the false claim. Additionally, the Tennessee FCA does not apply to any claim of less than \$500 in value, claims involving workers' compensation or relating to tax laws administered by the Tennessee Department of Revenue, or claims covered by the Medicaid False Claims Act. Claims under the Tennessee FCA must be brought within 3 years of discovery of the violation, but no later than 10 years after the conduct resulting in the violation occurred.</p> <p>Civil monetary penalties are between \$2,500 and \$10,000 for each false claim, plus up to three times the damages sustained by the state. Whistleblowers bringing claims are entitled to 25 to 33 percent of the state's recovery. The Tennessee FCA contains whistleblower protection provisions that prohibit employers from retaliating against employees who report their employer's potentially false claims or who participate in bringing or assisting with a FCA action.</p>

<p>Tennessee (Cont.)</p>	<p>In addition, Tennessee has a Tennessee Medicaid False Claims Act, which similarly mirrors the federal FCA. However, this statute only applies to false claims made to the Tennessee Medicaid Program, TennCare. Additionally, civil monetary penalties range between \$5,000 and \$25,000 for each occurrence, plus up to treble damages. A civil lawsuit under the Tennessee Medicaid FCA must be brought within the later of: (1) 6 years after the violation was committed, or (2) 3 years after the date the violation was discovered (but no more than 10 years after the violation was committed). The whistleblower may recover between 15 to 25 percent of the award if the government intervenes and between 25 and 30 percent if the government does not intervene. The Tennessee Medicaid FCA contains whistleblower protection provisions that prohibit employers from retaliating against employees who report their employer’s potentially false claims or who participate in bringing or assisting with a FCA action.</p> <p>Legal Citations: TENN. CODE ANN. §§ 4-18-101, <i>et seq.</i>; TENN. CODE ANN. §§ 71-5-181, <i>et seq.</i></p>
<p>Texas</p>	<p>Texas has a Medicaid FCA that is very similar to the federal FCA. Actions and conduct that trigger penalties under the Texas FCA are substantially similar to those that trigger penalties under the federal FCA. Specifically, these include, among other things, knowingly submitting, or causing to be submitted, a false claim for payment; knowingly making or using, or causing to be made or used, a false record or statement to get a claim paid; conspiring to make a false claim or get one paid; or knowingly making or using or causing to be made or used a false record to avoid repayments to the government. However, under the Texas Medicaid FCA, a person or entity may also be liable if he or she knowingly presents, or cause to be presented, a claim for payment under the Medicaid program for a product or service that was furnished or rendered by an unlicensed provider or that has not been approved by a healthcare practitioner.</p> <p>The Texas Act differs from the federal FCA in that the civil penalty is greater under the Texas law for unlawful acts that result in injury to an elderly person, a disabled person, or someone younger than 18 years old. The Texas Medicaid Fraud Prevention Law provides for civil penalties of between \$5,500 to \$15,000 for each violation that results in an injury to a disabled person, an elderly person, or a person younger than 18 years old; or between \$5,500 to \$11,000 for each violation</p>

<p>Texas (Cont.)</p>	<p>that did not result in such injury, plus damages of two times the amount of damage to the state. A civil lawsuit must be brought within the later of (1) 6 years from when the violation occurred or (2) 3 years after the violation was discovered by the relevant agency, but no more than 10 years after the violation was committed. In addition, the law provides liability for administrative fees including court costs, reasonable attorney's fees, witness fees, and deposition fees.</p> <p>The Act contains <i>qui tam</i> whistleblower provisions permitting a person to bring a suit on behalf of the government that is very similar to the federal FCA <i>qui tam</i> provisions and also has a whistleblower protection provision that prohibits employers from retaliating against employees who report their employer's potentially false claims or who participate in bringing or assisting with a FCA action. Under the Texas Medicaid FCA, a whistleblower may be entitled to 15 to 25 percent of the state's recovery.</p> <p>In addition to the Texas Medicaid FCA, Texas also has a provision under its Medicaid law related to false claims that allows the state agency responsible for administering the Medicaid program to recoup payments and issue penalties for fraudulent behavior. Under this provision, similar activities are prohibited; however, the penalties vary slightly. The provision provides for administrative penalties of: 1) the amount paid as result of the violation, plus interest; 2) a penalty of up to twice the amount paid; and 3) not less than \$5,000 or more than \$15,000 for violations resulting in injury to a disabled person, elderly person, or person under 18 and not more than \$10,000 for all other violations. An individual cannot be liable for penalties under both sections for the same act.</p> <p>Legal Citations: TEX. HUM. RES. CODE ANN. § 32.039; TEX. HUM. RES. CODE ANN. §§ 36.001 to 36.132.</p>
<p>Utah</p>	<p>Utah's FCA is similar to the federal FCA with actions and conduct that trigger penalties that are substantially similar to those that trigger penalties under the federal FCA. Specifically, these include, among others, knowingly submitting, or causing to be submitted, a false claim for payment; making or using a false record or statement to get a claim paid; conspiring to make a false claim or get one paid; or making or using a false record to avoid repayments to the government.</p>

<p>Utah (Cont.)</p>	<p>The criminal penalties vary based on the amount of the monetary damage suffered by the state. Such penalties range from 2nd and 3rd degree felonies to Class A and B misdemeanors. The civil monetary penalties under the Utah FCA are slightly less than under the federal FCA (up to treble the amount of damage to the state and between \$5,000 to \$10,000 for each prohibited claim or act). A lawsuit under the Utah FCA must be brought within the later of: (1) 6 years after the violation was committed, or (2) 3 years after the date the violation was discovered (but no more than 10 years after the violation was committed).</p> <p>The Utah FCA does not currently provide for a private right of action. Additionally, the Utah FCA, unlike the federal FCA, does not have a whistleblower protection provision. Instead, Utah law provides protection for state employees, which prohibits retaliation against state employees who disclose violations of state or federal law.</p> <p>Legal Citations: UTAH CODE ANN. §§ 26-20-1 <i>et seq.</i>; UTAH CODE ANN. §§ 67-21-1 <i>et seq.</i></p>
<p>Virginia</p>	<p>Virginia’s FCA, also known as the “Fraud Against Taxpayers Act,” is very similar to the federal FCA and prohibits the knowing submission of false or fraudulent claims to the state government. Actions and events that trigger penalties under the federal FCA are the same as those that trigger penalties under the Virginia FCA. Specifically, these include: knowingly submitting or causing to be submitted a false claim for payment; knowingly making or using or causing to be made or used a false record or statement to get a claim paid; conspiring to make a false claim or get one paid; or knowingly making or using or causing to be made or used a false record to avoid repayments to the government.</p> <p>The Commonwealth may impose penalties of between \$10,957 to \$21,926 per false claim, as adjusted under the Federal False Claims Act for inflation, plus treble damages. The Commonwealth may also recover reasonable attorney fees and costs. A civil lawsuit under the Virginia FCA must be brought within the later of (1) 6 years from when the violation occurred or (2) 3 years after the violation was discovered by the relevant agency, but no more than 10 years after the violation was committed.</p>

<p>Virginia (Cont.)</p>	<p>The Virginia FCA, like the federal FCA, provides for a <i>qui tam</i> private right of action where a person may file suit on behalf of the government. The whistleblower may recover between 15 to 25 percent of the award if the government intervenes and between 25 and 30 percent if the government does not intervene. The Virginia FCA also has a whistleblower protection provision that prohibits employers from retaliating against employees who report their employer’s potentially false claims or who assist with a FCA action.</p> <p>Legal Citations: VA. CODE ANN. §§ 8.01-216.1 to 8.01-216.19.</p>
<p>Washington</p>	<p>The Washington Medicaid Fraud FCA, like the federal FCA prohibits the knowing submission of false or fraudulent claims to the Medicaid program. Actions and events that trigger penalties under the federal FCA are the same as those that trigger penalties under the Washington Medicaid FCA. Specifically, these include: knowingly submitting or causing to be submitted a false claim for payment; knowingly making or using or causing to be made or used a false record or statement to get a claim paid; conspiring to make a false claim or get one paid; or knowingly making or using or causing to be made or used a false record to avoid repayments to the government.</p> <p>Violators are liable for a civil penalty of not less than \$10,957 to \$21,916 per false claim, as adjusted under the Federal False Claims Act for inflation, plus treble damages.</p> <p>The Washington Medicaid Fraud FCA provides for <i>qui tam</i> private rights of action under which a person may file a lawsuit on behalf of the government and share in the monetary recovery. Where the state proceeds with the action, the <i>qui tam</i> relator or whistleblower will receive at least fifteen percent but no more than twenty-five percent of the proceeds of the action or settlement of the claim, depending on his/her contribution to the prosecution of the action. Where the state does not proceed with the action, the relator shall receive not less than twenty-five percent and not more than thirty percent of the proceeds of the action. Whistleblowers are protected under the Washington FCA, which prohibits employers from discriminating or retaliating against an employee who reports alleged false claims or assists in an FCA action. Persons discriminated or retaliated</p>

<p>Washington (Cont.)</p>	<p>against for their participation in a <i>qui tam</i> action may bring a civil action within three years of the date of retaliation.</p> <p>Other Washington state laws include provisions that create liability for false claims submitted to a broad range of health care payors, including Medicaid. Any person who knowingly makes a false claim or false representation related to a health care payment or conceals the occurrence of any event affecting the right to a health care payment may be guilty of a class C felony and subject to various sanctions, including disgorgement of funds plus interest, civil penalties in the amount of three times the excess payment, and/or a fine of \$25,000. These state laws also afford whistleblower protections to employees under certain circumstances. Washington common law recognizes actions against employers for wrongful discharge in violation of public policy. Additionally, the Washington State Department of Health’s laws contain whistleblower protections for those that report fraud in connection with quality of care. Finally, there are a number of Washington laws that protect state and local employees from retaliation related to whistle blowing.</p> <p>Legal Citation: RCW § 74.66.005 <i>et seq.</i>; RCW § 74.09.230; RCW § 74.09.210; RCW § 48.80.010; RCW § 43.70.075; <i>See generally</i> RCW § 49.60 <i>et seq.</i> (employment rights for reprisal and retaliation); RCW § 42.40; RCW § 42.41</p>
<p>Wyoming</p>	<p>Under the Wyoming Medical Assistance and Services Act, it is illegal for a person to knowingly make a false statement or misrepresentation or knowingly fail to disclose a material fact in providing medical assistance or a false statement or misrepresentation or knowingly fail to disclose a material fact in providing Medicaid services. A violation of this Wyoming law may result in recovery of the overpayments, completion of an educational program regarding the proper submission of claims and appropriate utilization of services, referral to the Medicaid Fraud Control Unit for further investigation and action, and/or suspension or termination from the Medicaid program. In addition, any person who violates these laws commits a felony punishable by imprisonment for up to 10 years and/or a fine of up to \$10,000.00.</p> <p>In addition, like the FCA, under the Wyoming Medicaid False Claims Act it is a violation to knowingly make or cause to be made a false or fraudulent claim for payment; knowingly make or use or cause to be made or used a false record or</p>

Wyoming (Cont.)	<p>statement material to a false or fraudulent claim; knowingly benefit from the submission of a false or fraudulent claim; or conspire to engage in any of the above.</p> <p>Civil remedies include penalties ranging from \$1,000 to \$10,000 per violation, treble damages, and costs of the civil action. A civil lawsuit under the Act must be brought within the later of (1) 6 years from when the violation occurred or (2) 3 years after the violation was discovered by the relevant agency, but no more than 7 years after the violation was committed.</p> <p>Currently, unlike the Federal FCA, Wyoming law only permits the state government and not private citizens or employees to file civil lawsuits to recover monetary damages. There are no <i>qui tam</i> or relator provisions and there are no provisions allowing a private citizen to share a percentage of any monetary recoveries.</p> <p>Like Federal law, Wyoming law provides certain whistleblower protections. The Wyoming Medical Assistance and Service Act provides protections specifically for state employees who in good faith report fraud, waste or gross mismanagement in a state agency, a violation of state or federal law, or a condition or practice that threatens the health or safety of that employee or any other individual. Wyoming law also provides whistleblower protection for nongovernmental employees, patients, or residents who report a violation of any state or federal law or rule and regulation.</p> <p>Legal Citations: Wyo. Stat. Ann. § 42-4-111; Wyo. Stat. Ann. § 42-10-105; Wyo. Stat. Ann. § 42-4-301 <i>et seq.</i>; Wyo. Stat Ann. § 9-11-101 <i>et seq.</i>; Wyo. Stat. Ann. § 35-2-910(b).</p>
--------------------	--